

**KANSAS STATE BOARD OF MORTUARY ARTS  
700 SW JACKSON, SUITE #904  
TOPEKA, KANSAS 66603-3733  
Wednesday-Thursday, April 13-14, 2011**

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**FORMAT OF MINUTES:**

On each motion there appear the names of two board members in a parenthesis. The first named made the motion, and the second named made the second. Ayes and Nays will be recorded at a voter's request.

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**Wednesday, April 13, 2011 and Thursday, April 14, 2011:**

- I. The Investigative Committee (IC) of the board met to discuss and make recommendations to the Board on open complaints. Those in attendance included: Charles R. Smith, Overland Park, Consumer; William H. "Bill" Young, Lake Quivira, Licensee; the Board's Litigation/Prosecuting Assistant Attorney General Steve Phillips; and Executive Secretary Mack Smith. Recommendations and Actions from this committee meeting are contained within these minutes.
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**Thursday, April 14, 2011:**

- II. The regularly scheduled meeting of the Kansas State Board of Mortuary Arts (KSBMA) was called to order by President Bill Young.

**Roll call** by Executive Secretary Mack Smith found the following board members in attendance: President William H. "Bill" Young, Lake Quivira, Licensee; Vice President Charles R. Smith, Overland Park, Consumer; Board Member Barry W. Bedene, Arma, Licensee; Board Member Fred G. Holroyd, Topeka, Licensee; and Board Member Diane Minear, Tonganoxie, Consumer. The board's Executive Secretary Mack Smith, and Assistant Attorney General Camille Nohe were in attendance.

The board noted this meeting's tentative agenda that is displayed on the agency's website at: <http://www.kansas.gov/ksbma/> under the heading of *Agency Information* and *Tentative Board Agenda*.

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(Holroyd-Smith) To approve a **final agenda** for this meeting. Carried.

(Bedene-Holroyd) To adopt the **January 13, 2011 regularly scheduled board meeting minutes** as submitted. Carried. These minutes will be signed by President Young and Executive Secretary Smith then displayed on the board's website.

The board reviewed results of the written **funeral directors' examination** administered on **January 13, 2011** noting that **83% (five of six applicants)** were **successful**.

The board reviewed results of the written **assistant funeral directors' examination** administered in **February, March and April 2011** noting that **71% (five of seven)** were successful. Since the law requiring examination for assistant funeral directors was enacted on February 8, 2008, **57 of 69** applicants (**83%**) have successfully passed this examination. There continues to be a dramatic decrease in the number of new assistant funeral director applicants—which affects the KSBMA's revenue negatively.

The board reviewed the '**List of Licensure Applicants**' scheduled to interview with the board at this meeting, noting the following applicants scheduled to meet with the board: three (3) embalmer-funeral director applicants and four (4) funeral director applicants along with one (1) applicant retaking the funeral directors' examination for a total of eight (8) applicants scheduled to be administered the written funeral directors' examination in conjunction with this meeting.

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- III. The board **reviewed individual applications** for embalmer and funeral director licensure along with the executive secretary's summations of the applicant's apprentice and supervising licensee progress reports. Applicants for licensure will be interviewed later in this meeting. Funeral director applicants will be administered the written funeral directors' examination by Funeral Home/Crematory Inspector Francis Mills at 1:30 p.m. this afternoon in the Florentine Room of the Jayhawk Tower.

All quarterly progress reports of embalmer/funeral director apprentices and supervising licensees were summarized by the executive secretary with copies of the individual reports available for board review.

Copies of related correspondence from the January meeting were also reviewed.

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- IV. **Legal Discussion: Individual Complaints/Investigations are listed numerically. The board did not necessarily take action in the order listed below:**

**Complaints and legal concerns:**

The board reviewed correspondence involving complaints resulting from action taken at the meeting of January 13, 2011.

**Information on open complaints:**

The Board's Investigative Committee, which is composed of Board Members Young and C. Smith with legal assistance provided by Assistant Attorney

General (litigation) Steve Phillips and administrative assistance by Executive Secretary Smith, met Wednesday, April 13, 2011 at 3:00 p.m. to discuss and make recommendations on open complaints. Investigative Committee recommendations are included with the following individual complaints.

**#10-20, #10-23, #10-25, #10-30, #10-33, #10-52 & #10-55**—(Bedene-Holroyd) To close the files. Carried. The individual has surrendered his embalmer and funeral director licenses without admitting fault on the condition that he cannot ever reapply for licensure. The Investigative Committee has sent a letter to the Sedgwick County District Attorney regarding missing prefinanced funeral agreement money. A letter of explanation has been sent to the complainants. KSBMA Executive Secretary Smith will work with the Wichita Police Department in obtaining the release of five (5) cremated remains and will work with a licensed funeral establishment in Wichita to appropriately return the cremated remains to the legal next of kin and to secure final disposition as requested in cases where no legal next of kin exists.

**#10-48**—(Bedene-Holroyd) To close the file. Carried. An application for the board to consider was never provided by this mortuary science student.

**#10-53**—(Bedene-Holroyd) To close the file. Carried. This complaint was provided to the Consumer Protection Antitrust Division of the Kansas Attorney General's Office and involves unlicensed activity involving at-need funeral arrangements.

**#10-54**—(Bedene-Holroyd) To close the file. Carried. Parties have been notified of no violations with this complaint that involved unprofessional conduct in providing professional services of an at-need funeral.

**#10-57**—(Bedene-Holroyd) To close the file. Carried. At the January 2011 meeting, the board denied the assistant funeral director application of this formerly licensed embalmer and funeral director based on KSA 65-1751(a)(13).

**#10-59**—(Bedene-Holroyd) To close the file. Carried. Parties were notified of no violations of this complaint that involved unprofessional conduct including failure to provide the family a written signed price statement prior to conducting services and providing merchandise.

**#10-61**—(Bedene-Holroyd) To close the file. Carried. The additional information requested from the licensee was never provided. The complaint involved unprofessional conduct.

**#10-62**—(Bedene-Holroyd) To close the file. Carried. This assistant funeral director, who was on probation, dropped his license prior to action being taken for violations of the probation guidelines. The complaint file, license file and agency data base will note the Missouri funeral director and the funeral home license issued to this individual were revoked effective March 11, 2011.

**#11-01**—(Bedene-Holroyd) To close the file. Carried. The prefinanced agreement in question has since been transferred as requested.

**#11-02 and #11-03**—(Smith-Young) To adopt the recommendations of the Investigative Committee for the Investigative Committee to issue a Summary Order. Carried. The complaint involves unprofessional conduct with the funeral home failing to release a body as requested by the family and failing to issue an out-of-state transit permit.

**#11-04**—(Smith-Young) To adopt the recommendations of the Investigative Committee for the Investigative Committee to issue a proposed consent agreement that if agreed to by the licensee would be presented to the Hearing Committee for their approval. Carried. The complaint involves unprofessional conduct with the funeral home overcharging, forging a signature and use of a casket and outer-container not selected by the family.

**#11-05**—(Smith-Young) To adopt the recommendations of the Investigative Committee to notify both parties of no violations of laws regulated by the KSBMA. Carried. The complaint involves unprofessional conduct with disrespect in the treatment of a dead human body.

**#11-06**—No action necessary at this time.

**#11-07**—(Bedene-Holroyd) To close the file. Carried. Due to a diversion agreement, no felony conviction exists.

**#11-08**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves an audit of trust funded prefinanced funeral agreements by the Kansas Secretary of State's Office in which all administrative concerns have been addressed by the audited funeral home.

**#11-09**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee of no violations of laws regulated by the KSBMA. Carried. The complaint involves unprofessional conduct relating to cremation.

**#11-10**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee of no violations of laws regulated by the KSBMA. Carried. The complaint involves unprofessional conduct involving the use of a casket at lesser value than the casket purchased preneed.

**#11-11**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves an audit of trust funded prefinanced funeral agreements by the Kansas Secretary of State's Office in which all administrative concerns have been addressed by the audited funeral home.

**#11-12**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves an audit of trust funded prefinanced funeral agreements by the Kansas Secretary of State's Office in which all administrative concerns have been addressed by the audited funeral home.

**#11-13**—(Bedene-Holroyd) To adopt the recommendations of the Investigative

Committee and close the file. Carried. The complaint involves an audit of trust funded prefinanced funeral agreements by the Kansas Secretary of State's Office in which all administrative concerns have been addressed by the audited funeral home.

**#11-14**—(Bedene-Holroyd) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves an audit of trust funded prefinanced funeral agreements by the Kansas Secretary of State's Office in which all administrative concerns have been addressed by the audited funeral home.

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## **V. Legislative Update**

The Board reviewed legislation from the 2011 Kansas legislative session, including:

**House Bill 2060**—Concerns the disposal of decedents' remains and amends KSA 65-1734 to include information for members of the military. The bill passed the House, 118-0, the Senate, 39-0, and has been approved by Governor Brownback and becomes law upon publication in the Statute Book, July 1, 2011.

**House Bill 2083**—Introduced by the KSBMA. Requires the funeral director in charge of a closing funeral home to notify individuals with prefinanced funeral agreements to select another funeral home and amends KSA 65-1713a. The bill passed the House, 117-1 and Senate, 39-0, has been approved by Governor Brownback and becomes law upon publication in the Statute Book, July 1, 2011.

**House Bill 2121**—Amends KSA 65-2426a and the authority of coroners to issue coroner permits to cremate. The bill remains in the House Committee on Judiciary at this time.

**House Bill 2240**—An act concerning cemetery corporations relating to cemetery merchandise contracts and permanent maintenance funds. Requested by the Kansas Secretary of State's Office. The bill is in a Conference Committee at this time.

**House Bill 2242**—An act concerning vital statistics relating to death and stillbirth certificates. The bill remains in the House Committee on Federal and State Affairs.

**House Bill 2268**—An act concerning state agencies; relating to the collection of licenses, fees, charges, taxes and exactions. The bill has been referred to the House Committee on Government Efficiency.

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## **VI. Board Business:**

- 1) (Bedene-Holroyd) To approve the **quarterly lists of continuing education (CE.)** Carried. One list contains on-site programs, while the other contains correspondence/home study programs. Both of these lists

- of approved continuing education programs are regularly updated and are available on the board's web site on the internet and are mailed quarterly to requesting licensees not having internet access.
- 2) (Smith-Holroyd) To approve the list of **lapsed licenses** as amended. Carried. The list is a part of these minutes and contains the names of individuals whose license renewals are past due for longer than six months, who have requested that their licenses be dropped, who have died or in the case of assistant funeral directors who are no longer employed at a funeral home under the supervision of a funeral director. The list reviewed by the Board included eight (8) assistant funeral director licenses, seven (7) funeral director licenses, and nine (9) embalmer licenses. Information is provided for a number of reasons, including use by the Office of Vital Statistics (OVS) for purposes of licensure verification used on death certificates.
  - 3) The board reviewed the list of **automatically suspended licenses**. This list contains the names of individuals who have not paid their license renewal fees by the appropriate due date and have not requested that their licenses be dropped. Once a license is six months in arrears, it is then automatically placed on the lapsed license list for purposes of being dropped. This list included five (5) embalmer licenses and three (3) funeral director renewals due through March 31, 2011.
  - 4) (Bedene-Holroyd) To approve the **FY 2011 third quarter** (January 1-March 31, 2011) **Report of Funeral Home/Crematory Inspector**, Francis F. Mills. Carried. 224 inspections were conducted during the quarter with six (6) violations noted. Two (2) for failure to display licenses and four (4) embalming/preparation room violations. A total of 7,777 miles were traveled involving 63 counties. The agency vehicle is approaching 120,000 miles, and a replacement vehicle has been ordered.
  - 5) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of 36 apprentices are currently registered with the board at this time, including: 19 embalmer-funeral directors, three (3) embalmers and 14 funeral directors.
  - 6) Discussion of **news articles** relating to the funeral profession that has been provided to board members and legal counsel for their review.
  - 7) A reminder of the regularly scheduled remaining 2011 board meeting dates: July 14, and October 13.
  - 8) The board **signed travel vouchers**.
  - 9) The board reviewed an *Updated Roster* of **Board Actions**. (Bedene-Holroyd) To approve the roster as amended. Carried. New board actions will be added to the KSBMA web site.
  - 10) The board discussed the Statement of Substantial Interest Form that must be filed by no later than April 30, 2011.
  - 11) **Crematory Operator Regulations**—After conferring with representatives from the Secretary of State's office, a public hearing and possible adoption of the regulations will be scheduled in conjunction with the upcoming July 14, 2011 board meeting. There are three (3) new proposed regulations and eight (8) regulations with proposed amendments. Mr. Smith will update the necessary, statutory histories and file the appropriate documentation with the Secretary of State and the

**VII. Executive Secretary's Report:**

- 1) **Budget Update—**  
Budget figures approved by the 2011 Kansas Legislature are as follows:
  - a) The KSBMA currently approved FY 2011 (July 1, 2010 through June 30, 2011) budget is \$272,940 which includes a replacement vehicle for the agency's lone automobile.
  - b) The KSBMA FY 2012 budget is \$275,239—an increase of \$2,299 or less than 1% from FY 2011.
  - c) The KSBMA FY 2013 budget is \$282,648—an increase of \$7,409 or less than 2.7% from FY 2012.
- 2) Updated information regarding the **International Conference of Funeral Service Examining Boards (ICFSEB)**.
  - a) Mr. Smith represented the KSBMA at the **ICFSEB's 107 Annual Convention** and the **Association of Executives of Funeral Service Boards (AEFSB)** held on March 3-4, 2011 in Myrtle Beach, South Carolina. A report of the meetings was provided to the board for their review and discussion.
- 3) Updated information on the **Council on Licensure, Enforcement and Regulation (CLEAR)** was discussed. Mr. Smith has not attended the Annual Meeting of CLEAR in several years and hopes to do so in September of 2011 if scheduling and budget allows.
- 4) Updated information regarding the **Federation of Associations of Regulatory Boards (FARB.)**
  - a) Due to funding restraints, Mr. Smith did not attend the 35<sup>th</sup> Annual FARB Forum held on January 28-30, 2011 in New Orleans, Louisiana. It is hoped that attendance at the Attorney's Certification Program in late September 2011 and at the Annual Forum in January of 2012 will be possible depending on scheduling and budget restraints.
- 5) Updated information on the **Kansas Funeral Directors and Embalmers Association (KFDA.)**
  - a) Mr. Smith represented the KSBMA at one of the Spring 2011 KFDA Regional Meetings and presented a Board Update during the business session of that meeting. The report was read by KFDA Executive Director Pam Scott at the other three (3) meetings. Mr. Smith was unable to attend due to a scheduling conflict. A report of the meetings was provided to the board for their review. Inspector Mills was also able to represent the board at one meeting.
  - b) Mr. Smith will represent the KSBMA at the 2011 Annual KFDA Convention in May 2011 in Wichita and will present the Annual Board Update on behalf of President Young, who will be unable to attend due to a Federal Emergency Management Agency (FEMA) meeting scheduled at the same time. KSBMA Funeral Home-Crematory Inspector Francis Mills will also represent the KSBMA at the meeting.
- 6) Information relating to the **board's Web Site**:  
<http://www.kansas.gov/ksbma/>
  - a) There were 69,254 successful requests on the web site in March.
  - b) The new agency web site is tentatively scheduled to be operational on Monday, May 9, 2011.

- 7) The board discussed information pertaining to the **National Funeral Directors Association (NFDA)**.
  - 8) Updated information from the **Federal Trade Commission (FTC)** regarding the **Funeral Rule** was discussed.
  - 9) Updated information from the **American Board of Funeral Service Education (ABFSE)** has hired Dr. Gretchen L. Warner as their executive director.
  - 10) Updated information from the **Cremation Society of North America (CANA)** was discussed. Inspector Mills will represent the KSBMA at the Crematory Operator Certificate Program scheduled for Friday, April 15, 2011, at the Kansas City Kansas Community College (KCKCC.)
  - 11) Updated information from the **Funeral Ethics Association (FEA)** was discussed.
  - 12) Updated information from the **Funeral Consumer Alliance (FCA)** was discussed.
  - 13) Updated information from the **Funeral Consumer's Alliance of Greater Kansas City** was discussed.
  - 14) Updated information from the **Funeral Ethics Organization (FEO)** was discussed.
  - 15) Updated information from the **American Society of Embalmers (ASE)** was discussed.
  - 16) Updated information from the **Kansas Department of Health and Environment (KDHE), Office of Vital Statistics (OVS)** was discussed.
  - 17) Updated information from the **Kansas City Kansas Community College (KCKCC) Mortuary Science Program**.
    - a) Mr. Smith met with Mortuary Science Program Director Wiley Wright on February 24, 2011. 24 of 31 national board examination (NBE) applicants from KCKCC were successful in 2010. There are currently 35 students enrolled in the Mortuary Science Program at KCKCC with more than 30 additional students currently enrolled in general education programs prior to entering the Mortuary Science Program. Thirteen students are scheduled to graduate in May 2011 with eight students attempting to graduate following summer school. KCKCC will be hosting a CANA Crematory Operator Certification Program in April. CANA will provide a program for mortuary students prior to the Crematory Operator Certification Program—which, as previously stated, will be attended by KSBMA Inspector Mills.
  - 18) Updated information from the **Kansas Mass Fatality Planning Task Force** was discussed.
  - 19) A group of four (4) small agency heads, including Mr. Smith, are meeting with representatives from Accounts and Reports on Monday, April 18, 2011, with questions involving the financial management system (**FMS**), **SMART**, currently utilized by the State of Kansas.
  - 20) The board reviewed a letter from the Kansas Department of Administration regarding the recent agency Delegate Audit Authority Transactions audit with no serious findings discovered.
  - 21) The United States Governmental Accountability Office (GAP) will be conducting a Survey of Death Care Regulation within the next several weeks. Mr. Smith served on a committee that reviewed certain sections of the upcoming survey to ensure that appropriate data was being requested.
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**VIII.** The board met with *Applicants for Licensure*:

**Embalmer Applicant: Mr. Michael G. “Mike” Rorabaugh**

(Bedene-Holroyd) To grant an embalmer license upon payment of an initial license fee of \$182.00 and completion of apprenticeship. Carried. With continuous employment, Mr. Rorabaugh will complete his embalming apprenticeship on May 11, 2011 at Irvin-Parkview Funeral Home in Manhattan, Kansas. Mr. Rorabaugh worked at Yoder Embalming Service in Wichita, Kansas for the greater portion of his embalming apprenticeship. Once issued, the renewal date for the license would be June 30, 2013. Mr. Rorabaugh attended Wichita State University in Wichita, Kansas and earned an Associate of Applied Science Degree at the Dallas Institute of Funeral Service in Dallas, Texas. He is already a licensed Kansas funeral director.

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**Embalmer-Funeral Director Applicant: Mr. Kyle O. Lancaster**

(Holroyd-Smith) To grant an embalmer license upon payment of an initial license fee of \$147.00 and to grant a funeral director license upon payment of an initial license fee of \$42.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Mr. Lancaster completed his apprenticeships on March 8, 2011 at George F. Porter and Sons Funeral Home in Kansas City, Kansas. Once issued, the renewal date for the licenses would be December 31, 2012. Mr. Lancaster was granted a Bachelor of Science Degree in Sociology at Kansas State University in Manhattan, Kansas and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Embalmer-Funeral Director Applicant: Ms. Taryn N. Lane**

(Bedene-Holroyd) To grant an embalmer license upon payment of an initial license fee of \$147.00 and to grant a funeral director license upon payment of an initial license fee of \$42.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Ms. Lane completed her apprenticeships on March 29, 2011 at Thatcher's Funeral Home in Kansas City, Kansas. Once issued, the renewal date for the licenses would be December 31, 2012. Ms. Lane earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Embalmer-Funeral Director Applicant: Ms. Loretta M. Bayless-Temple**

(Bedene-Holroyd) To grant an embalmer license upon payment of an initial license fee of \$77.00 and to grant a funeral director license upon payment of an initial license fee of \$22.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Ms. Bayless-Temple completed her apprenticeships on March 19, 2011 at Meyer's Funeral Chapel Northland in Parkville, Missouri. Once issued, the renewal date for the licenses would be February 28, 2012. Ms. Bayless-Temple earned an Associate in Arts Degree at Metropolitan Community Colleges in Kansas City, Missouri and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Funeral Director Applicant: Mr. George R. Doll**

(Bedene-Smith) To grant a funeral director license upon payment of an initial license fee of \$26.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Mr. Doll completed his funeral directing apprenticeship on March 5, 2011 at Stewart Funeral Home in Wamego, Kansas. Once issued, the renewal date for the funeral director license would be April 30, 2012. Mr. Doll attended Fort Hays State University in Hays, Kansas and earned an Associate of Applied Science Degree in Funeral Service at the Dallas Institute of Funeral Service in Dallas, Texas. He is currently serving an embalmer apprenticeship.

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**Funeral Director Applicant: Ms. Rachael E. Hall**

(Holroyd-Smith) To grant a funeral director license upon payment of an initial license fee of \$34.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Ms. Hall completed her funeral directing apprenticeship on April 5, 2011 at Hillside Funeral Home in Wichita, Kansas. Once issued, the renewal date for the funeral director license would be August 31, 2012. Ms. Hall attended Butler County Community College in El Dorado, Kansas, earned a Bachelor of Arts Degree in Anthropology with a Minor in History at Wichita State University in Wichita, Kansas and earned an Associate in Applied Science degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas. She is already a licensed Kansas embalmer.

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**Funeral Director Applicant: Ms. L. Pamela Morgan**

(Bedene-Holroyd) To grant a funeral director license upon payment of an initial license fee of \$44.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Ms. Morgan completed her funeral directing apprenticeship on March 22, 2011 at Hall Funeral Home in Lincoln, Kansas. Once issued, the renewal date for the funeral director license would be January 31, 2013. Ms. Morgan attended Metropolitan Junior College in Kansas City, Missouri and earned an Associate of Applied Science Degree at Colby Community College in Colby, Kansas.

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**Funeral Director Applicant: Mr. David A. Robson**

(Bedene-Holroyd) To grant a funeral director license upon payment of an initial license fee of \$6.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Mr. Robson completed his funeral directing apprenticeship on April 13, 2011 at Pauls Funeral Home in Hugoton, Kansas. Once issued, the renewal date for the funeral director license would be June 30, 2011. He attended Kansas City Kansas Community College in Kansas City, Kansas.

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**Assistant Funeral Director Applicant: Mr. Luke A. Knoll**

(Holroyd-Smith) To grant an assistant funeral director license. Carried. The applicant will either register as an apprentice funeral director or pass the written examination before paying an initial licensure fee of \$142.50 to complete the licensure process.

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**IX. New/Old/Remaining Business/Adjournment**

(Bedene-Minear) To adjourn—subject to recall by the president, vice president or executive secretary. Carried. The date of the next regularly scheduled board meeting is Thursday, July 14, 2011. A *public hearing* will be scheduled to review *regulations* relating to the **licensing of crematory operators** in conjunction with the July meeting.

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At approximately 1:30 p.m. Executive Secretary Smith read instructions to the funeral directors' examinee applicants prior to the administration of the funeral director examination which was proctored by Inspector Francis Mills in the Florentine Room of the Jayhawk Tower. The results of that examination are a part of these minutes.

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Respectfully submitted:

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William H. "Bill" Young, President  
Thursday, July 14, 2011  
(Date)

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Mack Smith, Executive Secretary  
Thursday, July 14, 2011  
(Date)

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